



CITY OF SAN JOSÉ

MOBILEHOME RENT ORDINANCE SAN JOSÉ MUNICIPAL CODE—CHAPTER 17.22

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Chapter 17.22

MOBILEHOME RENT ORDINANCE

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Part 1

PURPOSE

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17.22.010 Findings and declarations.

The council of the city of San José finds and declares as follows:

- A. There is a shortage of and an increasing demand for all types of housing in the city of San José. This circumstance, coupled with the rising cost of developing new housing, the unavailability of land, and other factors, has put substantial upward pressure on residential rents.
- B. The city of San José contains a limited number of mobilehome parks that rent mobilehomes or mobilehome lots to a significant number of the city's population. The vacancy rate among these mobilehome parks is very low and there is also a shortage of available mobilehomes and mobilehome lots in neighboring communities.
- C. A substantial majority of mobilehome residents in the city own their own mobilehomes and virtually all mobilehome owners have made a substantial financial investment in their mobilehomes.
- D. The cost and risk of potential damage in moving mobilehomes is great, as is the cost of preparing a new site and meeting the code requirements for installing a new mobilehome.
- E. Recent changes in state law regarding mobilehomes have imposed substantial limitations on the ability of owners of older mobilehomes to relocate such mobilehomes.
- F. A significant proportion of mobilehome park residents are senior citizens, many of whom live on limited or fixed incomes.
- G. This chapter is a necessary measure to protect the health, safety and welfare of the citizens of San José.

(Ords. 22020, 22053, 22284.)

17.22.020 Purpose.

The purpose of the city council in enacting this chapter is to prevent excessive and unreasonable rent increases to mobilehome park residents, to prevent an exploitation of the shortage of available mobilehome lots in the city, to permit mobilehome park owners to receive a fair and reasonable return, and to establish a process for rent dispute resolution.

(Ord. 22284.)

17.22.030 Interpretation.

No provision of Chapter 17.22 of Title 17 of this code shall be applied so as to prohibit the administrative hearing officer from granting a rent increase that is demonstrated necessary to provide a mobilehome park owner with a fair return on investment.

(Ord. 25996.)

Part 2

DEFINITIONS

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17.22.300 Working day.

17.22.040 General.

For purposes of this chapter, certain words and phrases are defined in this part and shall be construed as set forth herein unless it is apparent from the context that a different meaning is intended.

(Ords. 22020, 22053, 22284.)

17.22.050 Administrative hearing officer.

“Administrative hearing officer” means a person who, pursuant to a written agreement approved by the city council or the city manager, serves as the hearing officer at a hearing to resolve a rent dispute pursuant to the provisions of this chapter.

(Ords. 22053, 22284.)

17.22.060 Affected rental unit.

“Affected rental unit” means a rental unit which is benefitted by a particular capital improvement or rehabilitation.

(Ord. 22284.)

17.22.070 Anniversary date.

“Anniversary date” means the date on which a rent increase becomes effective.

(Ord. 22284.)

17.22.080 Base rent.

“Base rent” means the rent charged by a landlord on the effective date of this chapter, plus any rent increase allowed under this chapter.

(Ord. 22284.)

17.22.090 Capital improvements.

“Capital improvements” means the addition or replacement of any improvement to a unit or property within the geographic boundaries of a mobilehome park which meets the following conditions:

A. The addition or replacement has a useful life of at least five years: and

B. Either:

1. The addition or replacement is necessary in order to maintain compliance with applicable local code requirements affecting health and safety; or

2. The addition or replacement is provided by the mobilehome park owner primarily to benefit the residents of the affected rental units.

C. Capital improvements do not include additions or replacement made to bring the rental unit into compliance with a provision of the San José Municipal Code or state law where the rental unit has not been in compliance from the time of its original construction or installation and such provision was in effect at the time of such construction or installation.

(Ords. 22020, 22053, 22284.)

17.22.100 City rental rights and referrals program.

"City rental rights and referrals program" means the section of the department of housing that provides staff services to the commission. References in any previous ordinance to the "Rental Dispute Program" shall be deemed as references to the city rental rights and referrals program.

(Ords. 22284, 22802, 24400, 26792.)

17.22.110 Commission.

“Commission” means the mobilehome advisory commission as established in Part 26 of Chapter 2.08 of Title 2 of this Code.

(Ord. 22284.)

17.22.115 Consumer Price Index.

For the purposes of this chapter, Consumer Price Index means the Consumer Price Index for all urban consumers in the San Francisco-Oakland all items index (1982-84 equals 100), as reported by the Bureau of Labor Statistics of the United States Department of Labor.

(Ords. 22284, 24400.)

17.22.120 Costs of operation and maintenance.

A. "Costs of operation and maintenance" means all expenses incurred in the operation and maintenance of a rental unit and the buildings or complex of buildings of which it is a part together with common areas, but excluding costs of debt service, costs of capital improvements and costs of rehabilitation.

B. "Costs of operation and maintenance" includes, but is not limited to, real property taxes, business taxes and fees (including fees payable by landlords under this chapter), insurance, sewer service charges, utility costs for common areas, utility costs for rental units to the extent such costs are included in the rent, janitorial services, professional property management fees, pool maintenance, building and grounds maintenance, supplies, equipment, refuse removal, and security services or systems.

(Ords. 22020, 22053, 22284.)

17.22.130 Costs of rehabilitation.

A. "Costs of rehabilitation" means the costs of any rehabilitation or repair work done on or in the mobilehome park (but not including such work done on or in an owner-occupied mobilehome) which was done in order to comply with an order issued by the San José building department, the director or the fire department, or to repair damage resulting from fire, earthquake or other natural disaster.

B. Costs of rehabilitation do not include costs of any rehabilitation or repair work done to bring a rental unit into compliance with a provision of the San José Municipal Code or state law where the rental unit has not been in compliance from the time of its original construction or installation and such provision was in effect at the time of such construction or installation.

(Ords. 22020, 22053, 22284, 24400.)

17.22.135 Dealer pullout.

"Dealer pullout" means a transaction in which: a mobilehome dealer, as such term is defined in Section 18002.6 of the Health and Safety Code, purchases a mobilehome from a mobilehome owner; the mobilehome owner terminates the tenancy and ceases to be a tenant of the mobilehome park; the dealer replaces the old mobilehome on the lot with a new one and pays a storage fee to the park owner; and the dealer transfers the new mobilehome to a new mobilehome owner.

(Ord. 24257.)

17.22.136 Department.

"Department" means the department of housing.
(Ords. 24400, 26792.)

17.22.138 Director.

"Director" means the director of the department.

(Ord. 24400.)

17.22.140 Housing services.

“Housing services” means those services provided in connection with the occupancy of a rental unit including but not limited to repairs, replacement, maintenance, painting, light, heat, water, laundry facilities and privileges, janitorial service, refuse removal, furnishings, telephone, parking, and any other benefits, privileges or facilities.

(Ords. 22053, 22284.)

17.22.145 In-place transfer.

“In-place transfer of a mobilehome” means the transfer of the ownership of a mobilehome with the mobilehome remaining on the mobilehome lot following the transfer.

(Ord. 23914.)

17.22.150 Landlord.

“Landlord” means a mobilehome park owner, mobilehome owner, lessor or sublessor who receives or is entitled to receive rent for the use and occupancy of any rental unit or portion thereof, and the agent, representative or successor of any of the foregoing.

(Ords. 22020, 22053, 22284.)

17.22.155 Maximum standard annual percentage increase.

“Maximum standard annual percentage increase” means:

- A. For increases effective prior to October 1, 1993, five percent.
- B. For increases effective between October 1, 1993, and September 30, 1994, three percent.
- C. 1. For increases effective on or after October 1, 1994, a percentage equal to seventy-five percent of the increase in the Consumer Price Index measured from the April of the calendar year preceding the year in which the increase is effective to the April of the calendar year in which the increase is effective, but in no event greater than seven percent nor less than three percent.
- 2. For increases effective on or after October 1, 1995, if the necessary information is not available to the rental rights and referrals program by May 15 of the calendar year for which the increase is determined, the measurement may be calculated based on the latest available information.
- D. Maximum standard annual percentage increases calculated pursuant to subsection C. shall apply to rent increases effective between October 1 of the calendar year in which the maximum standard annual percentage increase is determined by the city rental rights and referrals program and September 30 of the next calendar year.

(Ords. 24400, 24666, 26792.)

17.22.160 Mobilehome.

“Mobilehome” means a structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit, to be used with or without a foundation system.

(Ord. 22284.)

17.22.170 Mobilehome lot.

“Mobilehome lot” means a portion of a mobilehome park designated or used for the occupancy of one mobilehome.

(Ord. 22284.)

17.22.180 Mobilehome owner.

“Mobilehome owner” means a person who has the right to the use of a mobilehome lot within a mobilehome park on which to locate, maintain and occupy a mobilehome, lot improvements and accessory structures for human habitation, including the use of the services and facilities of the park.

(Ord. 22284.)

17.22.190 Mobilehome park.

“Mobilehome park” means any area or tract of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation for permanent, as opposed to transient, occupancy.

(Ord. 22284.)

17.22.200 Mobilehome resident.

“Mobilehome resident” means a person, including a mobilehome owner or mobilehome tenant, who occupies a mobilehome.

(Ord. 22284.)

17.22.210 Mobilehome tenant.

“Mobilehome tenant” means a person who rents or leases a mobilehome from a mobilehome owner.

(Ord. 22284.)

17.22.220 Owner.

“Owner” means a mobilehome owner.

(Ord. 22284.)

17.22.230 Party.

“Party” means a landlord, mobilehome owner or mobilehome tenant whose rent increase is the subject of the administrative hearing process pursuant to this chapter.

(Ords. 22284, 22802.)

17.22.240 Rent.

A. “Rent” means the consideration, including any bonus, benefit or gratuity, demanded or received by a landlord for or in connection with the use or occupancy, including housing services, of a rental unit or in connection with the assignment of a lease or in connection with subleasing of the rental unit.

B. “Rent” shall not include utility charges for utility services (including gas, electricity, water, refuse disposal, and/or sewer service), provided to an individual mobilehome resident, as opposed to utility services provided to the mobilehome park in general, where such charges are billed to the mobilehome resident separately from the rent for the mobilehome or mobilehome lot.

(Ords. 22022, 22053, 22284.)

17.22.250 Rent increase.

“Rent increase” means any rent demanded of or paid by a mobilehome owner or mobilehome tenant in excess of rent paid for the rental unit immediately prior to such demand or payment. Rent increase includes any reduction in services provided to a mobilehome resident without a corresponding reduction in the moneys demanded for or paid as rent.

(Ords. 22020, 22053, 22284.)

17.22.260 Rental agreement.

“Rental agreement” means a written agreement between a landlord and a mobilehome owner or mobilehome tenant for the use and occupancy of a rental unit to the exclusion of others.

(Ord. 22284.)

17.22.270 Rental unit.

“Rental unit” means a mobilehome or mobilehome lot, located in a mobilehome park in the city of San José, which is offered or available for rent. Rental unit includes the land, with or without a mobilehome, and appurtenant buildings thereto and all housing services, privileges and facilities supplied in connection with the use or occupancy of the mobilehome or mobilehome lot.

(Ords. 22020, 22053, 22284.)

17.22.280 Service reduction.

“Service reduction” means a decrease or diminution in the basic service level required to be provided by the landlord pursuant to any of the following:

- A. California Civil Code Section 1941.1 and 1941.2.
- B. The Mobilehome Residency Law, California Civil Code Section 798 et seq.
- C. The Mobilehome Parks Act, California Health and Safety Code Sections 18200 et seq.

- D. The landlord's implied warranty of habitability.
- E. An express or implied agreement between the landlord and the resident.
- F. The level of service as implied by the condition of improvements, fixtures, and equipment, and their availability for use by the resident, at the time of the last rent increase.
- G. Applicable rules or regulations of the mobilehome park.

(Ord. 22284.)

17.22.290 Tenant.

“Tenant” means a mobilehome tenant.

(Ords. 22020, 22053, 22284.)

17.22.300 Working day.

“Working day” means a day the San José City Hall is open for public business.

(Ord. 22284.)

Part 3 EXEMPTIONS

Sections:

- 17.22.350 New rental units.**
- 17.22.360 Governmental agencies.**
- 17.22.370 Rental agreements.**
- 17.22.390 Burden of proof.**

17.22.350 New rental units.

A. The provisions of this chapter shall not apply to rent or rent increases for mobilehome lots for which plumbing, electrical and sewer permits were issued after September 7, 1979. If a plumbing or an electrical or a sewer permit was issued for a mobilehome lot on or before September 7, 1979, the provisions of this chapter shall apply to such mobilehome lot.

B. The provisions of this chapter shall not apply to rent or rent increases for mobilehomes situated on mobilehome lots which are excluded from coverage pursuant to subsection A. of this section.

(Ord. 22284.)

17.22.360 Governmental agencies.

A. The provisions of this chapter shall not apply to mobilehomes or mobilehome parks owned or operated by any governmental agency.

B. The provisions of this chapter shall not apply to any rental unit whose rent is subsidized pursuant to the Housing Assistance Payments Program (Pub. L. 93-383, Section 8, as amended).

(Ord. 22284.)

17.22.370 Rental agreements.

A. The provisions of this chapter shall not apply to any mobilehome lot which is the subject of a rental agreement voluntarily entered into between a landlord and a mobilehome owner where the rental agreement meets all of the following criteria:

1. The rental agreement was entered into on or after January 1, 1986.
2. The term of the rental agreement is in excess of twelve months' duration.
3. The mobilehome lot which is the subject of the rental agreement is used for the personal and actual residence of the mobilehome owner.
4. The first paragraph of the rental agreement contains a provision notifying the mobilehome owner that the mobilehome lot will be exempt from the provisions of this chapter.

B. This exclusion shall apply only for the duration of the term of the rental agreement and any uninterrupted, continuous extensions thereof. If the term of the rental agreement is not extended and no new rental agreement meeting the above-stated criteria is entered into, this chapter shall immediately become applicable to the mobilehome lot and the last rental rate charged for the lot under the immediately preceding rental agreement shall be the rent for purposes of determining the base rent under this chapter.

(Ord. 22284.)

17.22.390 Burden of proof.

The burden of proving that a mobilehome or mobilehome lot is not subject to this chapter shall be on the landlord.

(Ord. 22284.)

**Part 3.5
FIRM OFFER BASE RENT**

Sections:

- 17.22.400 Firm offer base rent for transfer of mobilehome.**

17.22.400 Firm offer base rent for transfer of mobilehome.

A. Any mobilehome owner may request the landlord quote the base rent that would be charged for the rent or lease of the mobilehome lot immediately following the transfer of the mobilehome by the mobilehome owner where the mobilehome will remain on the mobilehome lot. The request shall be in writing.

B. Within five working days from the receipt of the request for a base rent quote, the landlord shall provide a written base rent quote to the mobilehome owner.

C. The base rent quote provided by the landlord shall be a firm offer of base rent that would be charged by the landlord for the rent or lease of the mobilehome lot upon the transfer of the mobilehome by the mobilehome owner in the case of any transfer where the mobilehome will remain on the mobilehome lot. Subject to subsection D. below, said firm offer shall remain in effect for not less than one hundred fifty days from the date the landlord gives such written notice to the mobilehome owner.

D. In the event the rent increase anniversary date for the mobilehome park falls within the one-hundred-fifty-day period of the firm offer, the firm offer base rent shall be adjusted by the rent increase permitted on the anniversary date under the provisions of this chapter. This adjusted amount shall be the "adjusted firm offer base rent."

E. Upon the transfer of the mobilehome, the transferee shall pay the firm offer base rent, or the adjusted firm offer base rent if applicable, as the rent for the mobilehome lot. The landlord shall not charge, demand or receive any rent in excess of the firm offer base rent, or the adjusted firm offer base rent if applicable, until the next anniversary date rent increase applicable to the park. Any increase of said base rent shall be in accordance with the provisions of this chapter.

F. If the one-hundred-fifty-day firm offer period expires before the transfer of the mobilehome, the mobilehome owner may request a new firm offer quote from the landlord in accordance with this section.

(Ord. 23294.)

Part 4 ALLOWABLE RENT INCREASES

Sections:

- 17.22.450 Rent increases allowable without review.**
- 17.22.452 Burden of proof regarding rent increases.**
- 17.22.455 Required notice following allowable rent increases.**
- 17.22.460 Increases subject to hearing.**
- 17.22.470 Fair return rent increases.**
- 17.22.480 Presumption of fair base year net operating income.**

- 17.22.490 Base year.**
- 17.22.495 Lost or missing base year records.**
- 17.22.500 Determination of base year net operating income.**
- 17.22.510 Rebuttal of fair net operating income presumption.**
- 17.22.520 Determination of current net operating income.**
- 17.22.530 Calculation of gross income.**
- 17.22.540 Calculation of operating expenses.**
- 17.22.550 Fair and reasonable return.**
- 17.22.570 Applicable percentage of Consumer Price Index.**
- 17.22.580 Determination of allowable rent increase.**
- 17.22.590 Service reductions.**

17.22.450 Rent increases allowable without review.

The following rent increases shall not be subject to review under the administrative hearing process set forth in Part 7 of this chapter:

- A. Any rent increase which does not exceed the maximum annual percentage increase as applied to the then current base rent.
- B. If the effective date of the last rent increase for the rental unit was more than twenty-four months prior to the effective date of the current rent increase, then a rent increase equal to the cumulative total of the maximum annual percentage increase for the current year and the previous year, as applied to the then current base rent.
- C. Any rent increase immediately following the termination of the tenancy of the mobilehome owner by the landlord in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.58 and Section 798.60, as amended.
- D. Any rent increase immediately following a voluntary vacancy by the mobilehome owner.
 - 1. A voluntary vacancy includes the following situations:
 - a. A vacancy occurring pursuant to a post-judgment settlement following the termination of the tenancy of the mobilehome owner by the landlord in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.58 and Section 798.60, as amended.
 - b. An abandonment of the mobilehome as such term is defined in the Mobilehome Residency Law.

c. A dealer pullout as defined in Section 17.22.135.

2. The following situations shall not constitute a voluntary vacancy under this subsection D. and no rent increase shall be allowed:

a. A removal of the mobilehome from the lot for the purpose of performing rehabilitation or capital improvements to the lot or for the purpose of upgrading the mobilehome.

b. An in-place transfer of a mobilehome.

c. A repossession of a mobilehome as that term is defined in the Mobilehome Residency Law, Chapter 2.5 of Part 2 of Division 2 of the California Civil Code.

d. A transfer following the death of the mobilehome owner to an heir, joint tenant or personal representative of the decedent in accordance with the provisions of the Mobilehome Residency Law, Chapter 2.5 of Part 2 of Division 2 of the California Civil Code.

E. Any rent increase immediately following a vacancy by a mobilehome tenant under the following circumstances:

1. A vacancy occurring because the prior mobilehome tenant was evicted for nonpayment of rent; issuance by the tenant of checks drawn against insufficient funds or closed accounts; chronically late payment of rent; the tenant's commission of waste upon the mobilehome; the tenant's maintenance, commission or permitting of a nuisance on the premises; the tenant's use of the premises for an unlawful purpose; or other material violation of a reasonable provision of a written rental agreement; or

2. A voluntary vacation of the mobilehome by the prior tenant. A vacancy arising from the issuance of a termination notice pursuant to the California Civil Code, which notice does not state a reason that would legally entitle a landlord to evict a tenant on three days notice under Section 1161(2) through 1161(4) of the California Code of Civil Procedure shall not be deemed a voluntary vacancy for the purposes of this subsection E.

(Ords. 22020, 22053, 22284, 24257, 24400, 26792.)

17.22.452 Burden of proof regarding rent increases.

The burden of proving that a rent increase is not subject to review under this chapter shall be on the landlord.

(Ord. 24257.)

17.22.455 Required notice following allowable rent increases.

When a new rent is established following the vacancy of a rental unit the landlord shall give written notice to the new mobilehome owner or mobilehome tenant of the anniversary date for rent increases and shall give written notice to such owner or tenant that the rental unit may be subject to a rent increase on such anniversary date.

(Ord. 24257.)

17.22.460 Increases subject to hearing.

A. The rent increases permitted by Section 17.22.450 are presumed to be sufficient to account for any increased costs of operation and maintenance, debt service, capital improvements and/or rehabilitation incurred by a landlord and to permit the landlord to receive a fair and reasonable return. Any rent increase in excess of the amounts specified in Section 17.22.450 shall be subject to the administrative hearing process set forth in Part 7 of this chapter.

B. No rent increase in excess of the amounts specified in Section 17.22.450 shall become effective or be collected by the landlord until such time as the excess is approved by an administrative hearing officer.

(Ords. 22020, 22053, 22284.)

17.22.470 Fair return rent increases.

A. It is expected that a rent increase pursuant to Section 17.22.450 will provide the landlord with a fair and reasonable return. However, in the event a rent increase in the amounts specified in Section 17.22.450 does not provide the landlord with a fair and reasonable return, the landlord may request an increase in excess of said amounts by filing a petition in accordance with the provisions of Part 6 of this chapter.

B. In the case of a rent increase in conjunction with the consolidation of rent increase anniversary dates as required or permitted by Section 17.22.670, the administrative hearing officer shall approve rent increases as set forth in Section 17.22.680. if the administrative hearing officer makes the following findings:

1. The landlord filed a timely petition requesting such rent increases;
2. The landlord submitted the statements required by Section 17.22.700.D.;
3. The proposed rent increases are in the percentage amounts set forth in Section 17.22.680; and
4. The landlord has demonstrated to the satisfaction of the administrative hearing officer the number of months since the last rent increase for each rental unit subject to the proposed rent increases.

C. In all cases where the rent increase is not in conjunction with the consolidation of rent increase anniversary dates and in all cases where the consolidated rent increase is in excess of the amounts set forth in Section 17.22.680, the administrative hearing officer's determination of the rent increase necessary to provide the landlord with a fair and reasonable return shall be made in accordance with the standards set forth in this part.

(Ords. 22020, 22053, 22284, 22470.)

17.22.480 Presumption of fair base year net operating income.

For the purposes of determining the rent increase necessary to provide the landlord with a fair and reasonable return, it shall be presumed that the net operating income, as described in this part, received by the landlord in the base year, provided the landlord with a fair and reasonable return.

(Ord. 22284.)

17.22.490 Base year.

- A. Except as provided in subsection B. of this section, base year means the 1985 calendar year.
- B. For rental units which were exempt from the provisions of this chapter pursuant to a rental agreement as described in Section 17.22.370 and which are subject to the provisions of this chapter because of the expiration or other termination of such rental agreement, base year means the last twelve months of the term of the rental agreement.

(Ord. 22284.)

17.22.495 Lost or missing base year records.

Notwithstanding any provision of Chapter 17.22 of Title 17 of this code, in instances in which the exact information regarding base year income and expenses is not available for the mobilehome park which is the subject of the hearing, the hearing officer shall have the discretion to consider all other information available to estimate the 1985 net operating income for the mobilehome park.

- A. Such information may include, but shall not be limited to the following:
 - 1. Information from tax returns, bank statements, annual reports or other financial data.
 - 2. Information from the files of the rental rights and referrals program regarding the mobilehome park which is the subject of the hearing, including but not limited to previously issued rental mediation and arbitration decisions.
 - 3. Such other information which may be available.
- B. In making an estimation under this section, the hearing officer may make reasonable inference and assumptions about the existing data as are necessary to project what the actual amount was.
- C. The hearing officer shall consider the comments from all parties to the hearing regarding the accuracy of the data used and the methodology in arriving at the estimated data.
- D. In determining the burden of proving the reasonableness of the rent increase under Section 17.22.820, the hearing officer may consider the circumstances under which missing data became unavailable as well as the credibility of testimony from all parties.

(Ords. 25996, 26792.)

17.22.500 Determination of base year net operating income.

The base year net operating income shall be determined by subtracting the actual operating expenses for the base year from the gross income realized during the base year.

(Ord. 22284.)

17.22.510 Rebuttal of fair net operating income presumption.

The landlord or any mobilehome resident who is a party to the administrative hearing may present evidence to rebut the presumption of fair and reasonable return based upon the base year net operating income as set forth in Section 17.22.480 and the administrative hearing officer may adjust said net operating income accordingly if the administrative hearing officer makes at least one of the following findings:

- A. The landlord's operating expenses in the base year were unusually high or low in comparison to

other years. In such instances, adjustments may be made in calculating operating expenses so the base year operating expenses reflect average expenses for the property over a reasonable period of time. The administrative hearing officer shall consider the following factors in making this finding:

1. Extraordinary amounts were expended for necessary maintenance and repairs.
2. Maintenance and repair was below accepted standards so as to cause significant deterioration in the quality of services provided.
3. Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.
4. Costs of debt service paid during the base year, where the proceeds of the debt were used for capital improvements or rehabilitation in the mobilehome park, do not reflect increases in interest payments resulting from either:
 - a. Refinancing of the outstanding principal where such refinancing is mandated by the terms of the financing transaction; or
 - b. Increased interest costs incurred as a result of a variable interest rate loan.

B. The gross income during the base year was disproportionate. In such instances, adjustments may be made in calculating gross income consistent with the purposes of this chapter. The administrative hearing officer shall consider the following factors in making this finding:

1. The gross income during the base year was lower than it might have been because some residents were charged reduced rent.
2. The gross income during the base year was significantly lower than normal because of the destruction of the premises and/or temporary eviction for construction or repairs.

(Ords. 22284, 22802.)

17.22.520 Determination of current net operating income.

The net operating income as of the date of filing a petition requesting an increase in excess of the amounts specified in Section 17.22.450 shall be determined by:

- A. Annualizing the rents in effect as of the date of filing to determine the annualized gross income.
- B. Determining the operating expenses during the immediately preceding calendar or fiscal year.
- C. Subtracting the operating expenses determined pursuant to subsection B. from the annualized gross income.

(Ord. 22284.)

17.22.530 Calculation of gross income.

A. For the purposes of determining the net operating income, gross income shall be the sum of the following:

1. Gross rents calculated as gross rental income at one hundred percent occupancy, adjusted for uncollected rents as provided in subsection B. of this section;
2. Income from laundry facilities and garage or parking fees;
3. Costs of utilities paid directly to the landlord by the mobilehome owners or mobilehome tenants; and
4. All other income or consideration received or receivable in connection with the use or occupancy of the rental unit.

B. Gross rents shall be adjusted for uncollected rents due to vacancy and bad debts to the extent such are beyond the control of the landlord. No such adjustment shall be greater than three percent of gross rents unless justification for a higher rate is demonstrated by the landlord.

(Ord. 22284.)

17.22.540 Calculation of operating expenses.

A. For the purposes of determining net operating income, operating expenses shall include the following:

1. Costs of operation and maintenance.
2. Utility costs to the extent they are not included in costs of operating and maintenance.
3. Landlord-performed labor compensated at reasonable hourly rates.
 - a. No landlord-performed labor shall be included as an operating expense unless the landlord submits documentation showing the date, time, and nature of the work performed.
 - b. There shall be a maximum allowed under this provision of five percent of gross income unless the landlord shows greater services were performed for the benefit of the residents.
4. License and registration fees required by law to the extent such are not otherwise paid by the residents.
5. Costs of capital improvements where all of the following conditions are met:
 - a. The capital improvement is made at a direct cost of not less than one hundred dollars per affected rental unit or at a total direct cost of not less than five thousand dollars, whichever is lower.
 - b. The costs, less any insurance proceeds or other applicable recovery, are averaged on a per unit basis for each rental unit actually benefitted by the improvement.
 - c. The costs are amortized over a period of not less than sixty months.

d. The costs do not include any additional costs incurred for property damage or deterioration resulting from any unreasonable delay in the undertaking or completion of any repair or improvement.

e. The costs do not include costs incurred to bring the rental unit into compliance with a provision of the San José Municipal Code or state law where the rental unit has not been in compliance from the time of its original construction or installation and such provision was in effect at the time of such construction or installation.

f. At the end of the amortization period, the allowable monthly rent is decreased by any amount it was increased because of the application of this provision.

6. Costs of rehabilitation, where all of the following conditions are met:

a. The costs, less any insurance proceeds or other applicable recovery, are averaged on a per unit basis for each rental unit actually benefitted by the rehabilitation.

b. The costs are amortized over a period of not less than thirty-six months.

c. The costs do not include any additional costs incurred for property damage or deterioration resulting from any unreasonable delay in the undertaking or completion of any repair or improvement.

d. The costs do not include costs incurred to bring the rental unit into compliance with a provision of the San José Municipal Code or state law where the rental unit has not been in compliance from the time of its original construction or installation and such provision was in effect at the time of such construction or installation. The costs may include costs incurred to maintain code compliance.

e. At the end of the amortization period, the allowable monthly rent is decreased by any amount it was increased because of the application of this provision.

7. Legal expenses limited to attorneys' fees and costs incurred in connection with successful good faith attempts to recover rents owing, successful good faith unlawful detainer actions not in derogation of applicable law, and legal expenses necessarily incurred in dealings with respect to the normal operation of the park to the extent such expenses are not recovered from adverse or other parties, subject to the following requirements:

a. Allowable legal expenses which are of a nature that recurs annually shall be considered as elements of operating expenses.

b. Allowable legal expenses which are not of a nature that recurs annually shall be amortized over a reasonable period of time and at the end of the amortization period, the allowable monthly rent shall be decreased by any amount it was increased because of the application of this provision.

B. Operating expenses shall not include the following:

1. Mortgage principal or interest payments or other debt service costs.

2. Any penalties, fees or interest assessed or awarded for violation of any provision of this chapter or of any other provision of law.

3. Legal expenses, including attorneys' fees and costs, incurred in relation to administrative or

judicial proceedings in connection with this chapter and legal expenses, where the pass-through of the expenses would constitute a violation of public policy.

4. Political contributions.

5. Depreciation of the rental unit or rental units.

6. Any expenses for which the landlord has been reimbursed by any utility rebate or discount, security deposit, insurance settlement, judgment for damages, settlement or any other method or device.

(Ords. 22284, 25017.)

17.22.550 Fair and reasonable return.

A. A fair and reasonable return is that amount required for the landlord to maintain the base year net operating income adjusted for inflation.

B. The adjustment for inflation shall be that amount required for the base year net operating income to be increased annually by a percentage of the Consumer Price Index. The applicable percentage of the Consumer Price Index shall be set in accordance with Section 17.22.570.

C. The increase in the consumer price index shall be the increase from the filing date of the last landlord petition to the filing date of the current landlord petition. For the first net operating income adjustment, the increase in the Consumer Price Index shall be the increase from the effective date of the last rent increase to the filing date of the current landlord petition.

(Ord. 22284.)

17.22.570 Applicable percentage of Consumer Price Index.

A. The city rental rights and referrals program shall set the percentage of the Consumer Price Index to be used in the adjustment for inflation described in Section 17.22.550. Said percentage shall be set annually before November 1 of each year.

B. The inflation adjustment percentage of the Consumer Price Index shall be eighty-five percent.

C. The inflation adjustment percentage shall apply to all rent increases which become effective on or after the first day of January immediately following the determination.

(Ords. 22284, 24666, 26792.)

17.22.580 Determination of allowable rent increase.

A. The administrative hearing officer shall set the rent increase in the amount required to provide the landlord with a fair and reasonable return.

B. In determining the rent increase required to provide the landlord with a fair and reasonable return, the administrative hearing officer shall determine:

1. The fair and reasonable return in accordance with Section 17.22.550.
 2. The gross income required to produce the fair and reasonable return.
 3. The rent increase needed to produce the required gross income.
- C. Rent increases based upon costs of capital improvements and/or costs of rehabilitation shall apply only to those rental units benefitted by the capital improvements and/or rehabilitation.
- D. Rent increases based upon increased operating expenses shall apply only to those rental units for which such increased operating expenses were incurred.

(Ord. 22284.)

17.22.590 Service reductions.

- A. If the administrative hearing officer finds that service reductions have occurred, the administrative hearing officer shall determine the value of the service reductions and shall offset the allowable rent increase by the value of the service reductions. Service reductions which affect all rental units subject to the proposed rent increase shall be prorated over all such rental units, regardless of the number of residents claiming such service reductions.
- B. In determining the value of any service reductions, the administrative hearing officer shall consider the following factors:
1. The area affected by the service reduction.
 2. The length of time the resident has been subjected to the service reduction.
 3. The degree of discomfort the service reduction imposes on the resident.
 4. The extent to which the service reduction causes the rental unit or rental units to be uninhabitable.
 5. The extent to which the service reduction causes a material reduction in the usability of the rental unit.
 6. Other similar factors deemed relevant by the administrative hearing officer.

(Ord. 22284.)

Part 4.5
INTERIM REGULATION OF RENT INCREASES
UPON IN-PLACE TRANSFERS OF MOBILEHOMES

Sections:

- 17.22.600 Reasonable interim rent increases.**

- 17.22.610 Excessive interim rent increases.**
- 17.22.611 Notice of transfer.**
- 17.22.612 Adjusted base rent.**
- 17.22.613 Rebate of excessive interim rent increases.**
- 17.22.614 Adjusted monthly rent.**
- 17.22.615 Notification of adjusted rent.**
- 17.22.616 Administrative calculation of rent.**
- 17.22.617 Fair return hearing.**
- 17.22.618 Fees.**
- 17.22.620 Effective date of adjusted monthly rent.**
- 17.22.625 General interim provisions.**
- 17.22.630 Application of interim regulation.**

17.22.600 Reasonable interim rent increases.

Upon an in-place transfer of a mobilehome, the landlord may increase the rent by an amount which does not exceed eight percent of the then current base rent without being subject to further provisions of this part.

(Ord. 23914.)

17.22.610 Excessive interim rent increases.

If a landlord increases the rent upon an in-place transfer of a mobilehome by an amount in excess of eight percent of the then current base rent, then the entirety of such increase shall be deemed to be an “excessive interim rent increase” and shall be subject to the following provisions of this part.

(Ord. 23914.)

17.22.611 Notice of transfer.

A. No later than thirty days after the landlord enters into a rental agreement which includes a rent increase subject to Section 17.22.610, the landlord shall file a notice of transfer with the rental rights and referrals program and shall mail a copy to the new owner. In addition, the landlord shall include a blank notice of correction form with the copy of the notice of transfer. The notice of transfer shall be in the format available from the rental rights and referrals program and shall be signed under penalty of perjury by the person filing the notice of transfer. The notice shall contain the following information:

1. The name and address of the mobilehome park owner;

2. The name of the mobilehome park;
3. The number of the lot or space on which the mobilehome is located;
4. The name and address of the transferor of the mobilehome;
5. The name and address of the transferee of the mobilehome;
6. The date of transfer;
7. The rent charged prior to transfer;
8. The rent charged following the transfer;
9. The name and address of the person who signed the notice;
10. The anniversary date for rent increases; and
11. A statement that, if the mobilehome owner disagrees with any of the information contained in the notice, the mobilehome owner has thirty days within which to fill out a notice of correction and file it with the rental rights and referrals program.

B. No later than thirty days after the landlord mails a copy of the notice of transfer to the mobilehome owner, the mobilehome owner may file a notice of correction with the rental rights and referrals program and shall mail a copy to the landlord. The notice of correction shall be in the format available from the rental rights and referrals program and shall be signed under penalty of perjury by the person filing the notice of correction. The notice shall contain the following information:

1. The name and address of the mobilehome park owner;
 2. The name of the mobilehome park;
 3. The number of the lot or space on which the mobilehome is located;
 4. The name and address of the transferor of the mobilehome;
 5. The name and address of the transferee of the mobilehome;
 6. The date of transfer;
 7. The rent charged prior to transfer;
 8. The rent charged following the transfer;
 9. The name and address of the person who signed the notice; and
 10. A copy of the notice of transfer to which the notice of correction refers.
- (Ords. 23914, 26792.)

17.22.612 Adjusted base rent.

A. Following the adoption of a resolution by the city council terminating the suspension of Section 17.22.381, the rent charged for each mobilehome lot which has been subject to an excessive interim rent increase shall be adjusted in accordance with the provisions of subsection B. The adjusted amount shall be referred to as the "adjusted base rent."

B. The adjusted base rent shall be the amount equal to the sum of the following:

1. The pretransfer base rent, which shall be the base rent in effect on the date immediately prior to the date of first rent increase subject to the provisions of Section 17.22.610; plus
2. Any anniversary date increases actually imposed thereafter, calculated by applying any such percentage increase to the pretransfer base rent as if there had been no increases subject to Section 17.22.610.

(Ord. 23914.)

17.22.613 Rebate of excessive interim rent increases.

A. The excessive rent rebate shall be equal to the difference between the total amount of rent actually paid subsequent to the first in-place transfer subject to Section 17.22.610, and the maximum amount of rent that would have been permitted under this chapter had Section 17.22.381 been in effect at the time of the in-place transfer.

B. The monthly installments shall be determined by dividing such excessive rent rebate by the number of months that an excessive interim rent was in effect.

(Ord. 23914.)

17.22.614 Adjusted monthly rent.

The adjusted base rent shall be reduced by a credit in the amount of the monthly installment of the excessive rent rebate. This amount shall be known as the "adjusted monthly rent."

(Ord. 23914.)

17.22.615 Notification of adjusted rent.

A. Unless the landlord has filed a petition for fair return hearing in accordance with the provisions of Section 17.22.617, the landlord shall provide written notice of rent adjustment to the mobilehome owner and file a copy of the notice with the rental rights and referrals program within thirty days of the adoption of a resolution by the city council terminating the suspension of Section 17.22.381.

B. The notice shall be in the format available from the rental rights and referrals program and shall contain the following:

1. The dollar amount of the adjusted base rent;
2. The dollar amount of the monthly rebate of excessive rent increase;
3. The dollar amount of the adjusted monthly rent;
4. The number of months the rebate will be in effect;
5. The effective date of all anniversary date increases imposed since the transfer and the percentage increase and amount of each such increase;
6. A demonstration of the calculation of each of the amounts specified in the notice;
7. A statement of the date on which the adjusted base rent and rebate will be effective as that date is set forth on the resolution terminating the suspension of Section 17.22.381, unless a request for administrative calculation is made;
8. The address and telephone number of the rental rights and referrals program and a statement that information concerning the law regarding rent increases is available from the rental rights and referrals program; and
9. A statement that the mobilehome owner has ten days from the receipt of the notice within which to contest the amount of the adjusted base rent, excessive rent rebate, rebate period, or adjusted monthly rent by filing a request for an administrative calculation with the rental rights and referrals program.

(Ords. 23914, 26792.)

17.22.616 Administrative calculation of rent.

A. Within ten days following the receipt of the notice of rent adjustment, the mobilehome owner may file a written request for an administrative calculation with the rental rights and referrals program.

B. In the event the mobilehome owner does not receive a timely notice of rent adjustment, the mobilehome owner may file a written request for an administrative calculation with the rental rights and referrals program within one year of the date of adoption of the resolution by the city council pursuant to

Section 17.22.630.

C. Following receipt of a request for an administrative calculation, an administrative hearing officer shall make a determination in accordance with the following provisions:

1. In the event the landlord has filed a notice of transfer with the rental rights and referrals program and the mobilehome owner did not file a notice of correction within the time provided for in Section 17.22.611, the administrative hearing officer shall, without a hearing, make an order of administrative calculation of rent based upon the information contained in the notice of transfer on file with the rental rights and referrals program.

2. In the event the mobilehome owner filed a notice of correction in accordance with the provisions of Section 17.22.611, the landlord shall file copies of records demonstrating the amount of rent immediately prior to and following the in-place transfer and the mobilehome owner may present evidence of the amount of the pretransfer rent. The administrative hearing officer, following a hearing on such evidence, shall make an order of administrative calculation of rent based upon the evidence presented.

3. In the event no notice of transfer was filed, the administrative hearing officer shall conduct an evidentiary hearing to determine the adjusted base rent.

D. The administrative hearing officer shall issue a written order of administrative calculation of rent setting forth the following determinations:

1. The dollar amount of the adjusted base rent;
2. The dollar amount of the monthly rebate of excessive rent increase;
3. The number of months that the rebate is to be in effect;
4. The date of the order;
5. A statement that the adjusted base rent and the rebate will be effective on the thirty-fifth day following the date of the order; and

6. Where applicable pursuant to the provisions of Section 17.22.618, the cost of the hearing.

E. The administrative hearing officer shall mail each party a copy of the order in the manner set forth in Section 17.22.618.

(Ords. 23914, 26792.)

17.22.617 Fair return hearing.

A. If the landlord contends that the implementation of the adjusted base rent or the rebate, or both, results in the landlord's receiving less than a fair and reasonable return, the landlord may file a petition with the rental rights and referrals program for a hearing to determine a fair and reasonable return.

B. A petition for a determination of a fair and reasonable return shall be filed in writing in the format available at the rental rights and referrals program not less than thirty days after the adoption of a resolution by the city council pursuant to Section 17.22.620.A. The petition shall contain the facts upon which the landlord relies to claim that a fair and reasonable return will not be received and shall contain the following additional information:

1. The name and address of the mobilehome park owner;
2. The name of the mobilehome park;
3. For each mobilehome with an increase subject to the provisions of Section 17.22.610:
 - a. The number of the lot or space on which the mobilehome is located;
 - b. The name and address of the transferor of the mobilehome;
 - c. The name and address of the transferee of the mobilehome;
 - d. The date of transfer;
 - e. The rent charged prior to transfer; and
 - f. The rent charged following the transfer;
 - g. The dollar amount of the adjusted base rent;
 - h. The dollar amount of the monthly rebate of excessive rent increase;

- i. The number of months that the rebate is to be in effect; and
 - 4. The name and address of the person who signed the notice.
 - C. The landlord shall mail a copy of the petition to all mobilehome owners whose rents are the subject of the petition. The petition shall contain a proof of service that a copy of the petition was mailed to all such mobilehome owners.
 - D. The landlord shall bear the burden of proving by a preponderance of the evidence at the hearing that because of the rent adjustment or the rebate, or both, the landlord is unable to obtain a fair and reasonable return.
 - E. If the administrative hearing officer finds that the rent adjustment or the rebate, or both, would deprive the landlord of a fair and reasonable return, the administrative hearing officer shall make one or both of the following orders:
 - 1. That the effective date of rent adjustment be deferred until the next anniversary date;
 - 2. That the excessive rent increase be rebated in lower monthly installments and over a longer period of time than that provided for in Section 17.22.613.
- (Ords. 23914, 26792.)

17.22.618 Fees.

In addition to the administrative fees imposed pursuant to Section 17.22.900:

- A. If the administrative hearing officer determines that the information on the notice of transfer filed by the landlord is inaccurate or that the landlord failed to file a notice of transfer, the administrative hearing officer shall further order that the landlord pay to the city the amount necessary to reimburse the city for the full cost of the administrative hearing, including all charges of the administrative hearing officer.
 - B. If the landlord requests a hearing pursuant to Section 17.22.617, the administrative hearing officer shall further order that the landlord pay to the city the amount necessary to reimburse the city for the full cost of the administrative hearing, including all charges of the administrative hearing officer. The landlord shall accompany any petition for a fair return hearing pursuant to section 17.22.617 with a deposit as set forth in the schedule of fees adopted by resolution of the city council.
- (Ord. 23914.)

17.22.620 Effective date of adjusted monthly rent.

- A. If no request for administrative calculation or petition for a fair return hearing has been filed in accordance with the provisions of this part, the adjusted monthly rent shall be effective on the sixtieth day following the adoption of a resolution terminating the suspension of Section 17.22.381.
- B. In the event a request for an administrative calculation or a petition for a fair return hearing has been filed in accordance with the provisions of this part, the adjusted monthly base rent shall become effective on the thirty-fifth day following the mailing by first class mail, postage prepaid, of the order of the administrative hearing officer unless the administrative hearing officer determines in the order that another date shall be the effective date.
- C. After the adjusted monthly rent becomes effective pursuant to this section, unless the effectiveness of any adjustment in rent is stayed by a court of competent jurisdiction, no mobilehome owner shall be required to pay any rent greater than the adjusted base rent as reduced by the credit of any applicable monthly installment of excessive rent rebate and as further adjusted by any anniversary date increases.

(Ord. 23914.)

17.22.625 General interim provisions.

A. Increases which are imposed upon transfer of a mobilehome by the mobilehome owner where the mobilehome remains on the mobilehome lot shall be subject to review exclusively under this part and shall not be subject to review under the administrative hearing process set forth in Part 7 of this chapter.

B. Except as provided in subsection C. below, anniversary date rent increases which occur during the effectiveness of this part are not subject to the limitations in this part but remain subject to the other provisions of this chapter.

C. In hearings to determine an allowable rent increase pursuant to Part 4 of this chapter, the administrative hearing officer shall:

1. During any period in which an excessive interim rent increase is charged: include the excessive interim rent in the calculation of the landlord's gross income and apply the same dollar amount rent increase to all affected mobilehome spaces.

2. During the rebate period: deduct the amount of the rebate from the calculation of the landlord's gross income and apply the same dollar amount of increase to all affected spaces without reference to the amount of any rebate.

D. In the event a landlord files a petition pursuant to Part 6 of this chapter, all hearings pursuant to this part shall be consolidated with any Part 6 hearing regarding the same mobilehome park.

(Ord. 23914.)

17.22.630 Application of interim regulation.

The provisions of this part shall apply only to in-place transfers of mobilehomes which were completed between October 25, 1991, and April 7, 1992.

(Ords. 23914, 24257.)

**Part 5
RENT INCREASE LIMITATIONS**

Sections:

17.22.650 Frequency of rent increases.

17.22.660 Notice of rent increase.

17.22.670 Consolidation of anniversary dates.

17.22.650 Frequency of rent increases.

Except as otherwise provided in this chapter, the rent of any rental unit may not be increased more than once in any twelve-month period.

(Ords. 22020, 22053, 22284.)

17.22.660 Notice of rent increase.

A. Whenever a landlord serves notice to a mobilehome owner or mobilehome tenant of a proposed rent increase which exceeds the amounts specified in Section 17.22.450, said notice shall include all of the following information:

1. The name of the mobilehome owner or mobilehome tenant occupying the rental unit which is the subject of the rent increase;
2. The mobilehome lot number or the mobilehome space number where the rental unit is located;
3. Notice that under the provisions of this chapter, the landlord is required to file a petition requesting a rent increase in excess of the amounts specified in Section 17.22.450;
4. Notice of the date the petition requesting a rent increase in excess of the amounts specified in Section 17.22.450 was filed with the city rental rights and referrals program;
5. Notice that the portion of the rent increase in excess of the amounts specified in Section 17.22.450 will not take effect until approved by an administrative hearing officer and a statement of the rent that will be in effect until such approval;
6. The current address and telephone number of the city rental rights and referrals program offices;
7. Notice that documentation supporting the proposed rent increase is on file with the city rental rights and referrals program and in the mobilehome park office;
8. The name and current address of the landlord to whom notices are to be sent; and
9. A statement of the proposed rent increase expressed both as an actual dollar amount and as a percentage of the then current base rent.

B. The notice shall be given to the mobilehome owners and mobilehome tenants within five working days from the date the landlord's petition requesting the increase is filed with the city rental rights and referrals program.

C. A copy of the notice shall be filed with the city rental rights and referrals program within five working days of service of the notice on the mobilehome owners or mobilehome tenants together with an affidavit of proof of service on such owners or tenants.

D. No rent increase in excess of the amounts specified in Section 17.22.450 shall be effective unless notice is given in accordance with the provisions of this section and such excess is approved by an administrative hearing officer.

(Ords. 22020, 22053, 22284, 26792.)

17.22.670 Consolidation of anniversary dates.

A. In order to facilitate the efficient operation of the administrative hearing process, anniversary dates for rent increases within a mobilehome park shall be consolidated as follows:

1. For the calendar years 1987 and 1988, there shall be no more than two anniversary dates for rent increases within a single mobilehome park.
2. For the calendar year beginning 1989, there shall be no more than one anniversary date for rent increases within a single mobilehome park.
3. Whenever a rent increase is proposed for a rental unit which was subject to a new rent pursuant to Section 17.22.380 less than twelve months prior to the consolidated anniversary date, such rent increase shall be subject to the provisions of Section 17.22.470.

B. This section shall not apply to anniversary dates of rent increases in connection with the rent or

lease of a mobilehome owned by a person who is not the resident of the mobilehome. However, nothing herein shall preclude consolidation of anniversary dates for rent increases for the rent or lease of such mobilehome.

(Ords. 22284, 22470.)

Part 6

LANDLORD RENT PETITION

Sections:

17.22.700 Petition by landlord.

17.22.710 Time for petition.

17.22.720 Effect of failure to file timely petition.

17.22.700 Petition by landlord.

- A. Any landlord whose rental unit is subject to this chapter and who seeks to increase the rent of such rental unit by an amount in excess of the amounts specified in Section 17.22.450 shall file a petition requesting such rent increase with the city rental rights and referrals program.
- B. Such petition shall be on a form prescribed by the commission and shall include:
1. A list of the names and addresses of all mobilehome owners and mobilehome tenants subject to the rent increase; and
 2. A statement of the date the rent increase is proposed to be effective.
- C. The petition shall be accompanied by a copy of any and all documentation upon which the landlord relied in determining the proposed rent increase. Such documentation shall, at a minimum, include but shall not be limited to:
1. A statement of the gross income described in Section 17.22.530, and documentation supporting such statement;
 2. A statement of the operating expenses described in Section 17.22.540 incurred during the calendar or fiscal year immediately preceding the filing of the petition, and documentation supporting such statement;
 3. A statement of the base year net operating income and the current net operating income calculated in accordance with Part 4 of this chapter; and
 4. A statement of the fair and reasonable return calculated in accordance with Section 17.22.550.
- D. In the case of a petition seeking a rent increase in conjunction with the consolidation of anniversary dates as provided in section 17.22.680, instead of the documentation required by subsection C. above, the petition shall be accompanied by a statement listing the date of the last rent increase for each mobilehome owner and each mobilehome tenant subject to the proposed rent increase and a statement setting forth the proposed rent increase for each such mobilehome owner and mobilehome tenant.
- E. The documentation required by this section shall be available for inspection and copying by any mobilehome owner or mobilehome tenant whose rent increase is the subject of a timely filed petition, or by such owner's or tenant's representative, at the city rental rights and referrals program during the normal business hours of the city rental rights and referrals program. A copy of such documentation shall be maintained at the mobilehome park office and shall be available for inspection during the normal business hours of such office.

F. If the landlord fails to submit any of the documentation required by this section, the administrative hearing officer may order production of such documentation. Failure by the landlord to submit the documentation ordered by the administrative hearing officer shall be grounds for the administrative hearing officer to find that a rent increase in the amounts specified in Section 17.22.450 will provide the landlord with a fair and reasonable return.
(Ords. 22020, 22053, 22284, 22470, 26792.)

17.22.710 Time for petition.

A. A landlord's petition requesting a rent increase in excess of the amounts specified in section 17.22.450 shall be filed at least ninety-five calendar days, but not more than one hundred twenty calendar days, prior to the effective date of the proposed rent increase.

B. The notice of the rent increase shall be given by the landlord to the affected mobilehome owners or mobilehome tenants within five working days of the date the petition is filed.

(Ords. 22284, 24666.)

17.22.720 Effect of failure to file timely petition.

If a landlord fails to file a petition requesting a rent increase in excess of the amounts specified in Section 17.22.450 or if a landlord fails to file the petition within the time set forth in Section 17.22.710, that portion of the proposed increase which is in excess of the amounts specified in Section 17.22.450 of the then current base rent shall not take effect or be collected by the landlord.

(Ords. 22284, 24400.)

**Part 7
ADMINISTRATIVE HEARING**

Sections:

17.22.750 Purpose of administrative hearing.

17.22.760 Time of hearing.

17.22.770 Notice of hearing.

17.22.780 Submission of documents.

17.22.785 Prehearing conferences.

17.22.790 Conduct of hearing.

17.22.800 Representation of parties.

17.22.810 Hearing - Findings and determination.

17.22.815 Duty to keep 1985 records.

17.22.820 Burden of proof.

17.22.830 Attendance of mobilehome owner or tenant.

17.22.840 Decision final.

17.22.850 Mathematic or clerical inaccuracies.

17.22.750 Purpose of administrative hearing.

The purpose of the administrative hearing is to make a determination of the allowable rent increase pursuant to this chapter.

(Ord. 22284.)

17.22.760 Time of hearing.

A. The administrative hearing officer shall conduct an administrative hearing on the petition within sixty calendar days of the date the landlord's petition is filed.

B. The administrative hearing may be scheduled during the normal business hours of the city rental rights and referrals program unless a party requests that the hearing be scheduled during the evening.

C. The administrative hearing may be held at the mobilehome park with the consent of the mobilehome park landlord, or at such other place as the city rental rights and referrals program may designate.

(Ords. 22020, 22053, 22284, 26792.)

17.22.770 Notice of hearing.

A. Written notice of the time, date and place of the administrative hearing and of the name of the administrative hearing officer assigned to hear the petition shall be given by the city rental rights and referrals program to the landlord and to all affected mobilehome owners and mobilehome tenants within ten working days of receipt of the landlord's petition requesting a rent increase in excess of the amounts specified in Section 17.22.450.

B. Such notice shall be personally served on the parties or shall be sent by first class mail, with a proof of service affidavit.

C. The notice of hearing shall specify the date by which any documentation the mobilehome owners or mobilehome tenants wish to introduce at the administrative hearing must be filed with the city rental rights and referrals program. Said date shall not be more than thirty calendar days from the date such notice is personally served or mailed by the city rental rights and referrals program.

(Ords. 22020, 22053, 22284, 26792.)

17.22.780 Submission of documents.

A. The mobilehome owners or mobilehome tenants shall submit to the city rental rights and referrals program and to the landlord a copy of all written documentation, including any allegations of service reductions which the owners or tenants wish to present at the hearing within the time specified in the notice described in Section 17.22.770.

B. Either party may request that additional specific supporting documentation be provided to

substantiate the claims made by the other party. The request shall be presented in writing to the administrative hearing officer.

C. The administrative hearing officer may order production of such requested documentation, except documentation required by Section 17.22.700, as the administrative hearing officer determines is relevant to the proceedings. The requested documentation shall be submitted to the city rental rights and referrals program and shall be available to the requesting party for inspection and copying during the normal business hours of the city rental rights and referrals program.

D. A copy of all documentation required by this section shall be maintained at the mobilehome park office and shall be available for inspection during the normal business hours of such office.

E. The failure of a party to produce documentation ordered by the administrative hearing officer shall be grounds for the administrative hearing officer to find that such party has not met its burden of proof with respect to the matters to which such documentation pertains.

(Ords. 22284, 22802, 26792.)

17.22.785 Prehearing conferences.

A. At the request of the administrative hearing officer, the rental rights and referrals program may schedule a prehearing conference to be held prior to the commencement of a hearing where proposed rent increases are based on the net operating income standard set forth in Part 4 of this chapter. Any such prehearing conference shall be held no earlier than ten calendar days after the date mobilehome owners and mobilehome tenants must file documentation to be introduced at the administrative hearing, as specified in the notice described in Section 17.22.770.

B. The purpose of the prehearing conference shall be for the parties and the administrative hearing officer to review the documentation to be presented at the administrative hearing, for the administrative hearing officer to determine an agenda for the administrative hearing, and for the parties to have an opportunity to stipulate to uncontested matters, if any.

C. In the event the administrative hearing officer desires that a prehearing conference be scheduled, the administrative hearing officer shall so notify the rental rights and referrals program. If the rental rights and referrals program schedules a prehearing conference, the rental rights and referrals program shall give written notice to the landlord and all affected mobilehome owners and mobile home tenants of the time, date and place of the prehearing conference not less than five calendar days prior to the date of the prehearing conference.

D. Any procedural determinations made at the prehearing conference by the administrative hearing officer regarding the conduct of the administrative hearing shall be binding on all parties to the hearing.

(Ords. 23102, 26792.)

17.22.790 Conduct of hearing.

A. The hearing shall be conducted by the administrative hearing officer in accordance with such rules and regulations as may be promulgated by the city council.

B. The administrative hearing officer shall have the power and authority to require and administer oaths or affirmations where appropriate, and to take and hear evidence concerning any matter pending before the administrative hearing officer.

C. The rules of evidence generally applicable in the courts shall not be binding on the administrative hearing officer. Hearsay evidence and any and all other evidence which the administrative hearing officer deems relevant and proper may be admitted and considered.

D. Any party or such party's representative, designated in writing by the party, may appear at the hearing to offer such documents, oral testimony, written declaration or other evidence as may be relevant to the proceedings.

E. The administrative hearing officer may grant or order not more than two continuances of the hearing for not more than ten working days each. Additional continuances may be granted only if all parties stipulate in writing. Such continuances may be granted or ordered at the administrative hearing without further written notice to the parties.

F. A tape recording of the proceedings shall be made by the administrative hearing officer or the city rental rights and referrals program and shall be maintained by the city rental rights and referrals program.

(Ords. 22020, 22053, 22284, 26792.)

17.22.800 Representation of parties.

A. The parties in any administrative hearing are entitled and encouraged to be represented at the hearings by a person of the party's choosing. The representative need not be an attorney.

B. Written designation of representatives shall be filed with the city rental rights and referrals program.

C. The written designation of representative shall include a statement that the representative is authorized to bind the party to any stipulation, decision or other action taken at the administrative hearing.

(Ords. 22284, 26792.)

17.22.810 Hearing - Findings and determination.

A. The administrative hearing officer shall, within fifteen working days of the close of the hearing, submit to the city rental rights and referrals program a written statement of decision, together with written findings of fact upon which such decision is based.

B. The administrative hearing officer's decision shall include a determination in accordance with the provisions of this chapter of the amount of the rent increase, if any, which is required to provide the landlord with a fair and reasonable return.

C. The administrative hearing officer's allowance or disallowance of any proposed rent increase or portion thereof may be reasonably conditioned in any manner necessary to effectuate the purposes of this chapter.

D. The city rental rights and referrals program shall forthwith mail copies of the decision to the landlord and all affected mobilehome owners and mobilehome tenants.

(Ords. 22020, 22053, 22284, 26792.)

17.22.815 Duty to keep 1985 records.

A. All mobilehome park owners who own rental units which are subject to the provisions of Chapter 17.22 of this code are hereby put on notice that they are required to keep all financial records for 1985 which may be necessary for making a net operating income determination and that failure to do so may result in the loss of the ability to obtain a rent increase in excess of the annual rent increase authorized under Section 17.22.450.

B. This section is intended to be merely a restatement of previously existing obligations under Chapter 17.22.

(Ord. 25996.)

17.22.820 Burden of proof.

- A. The burden of proving the reasonableness of the rent increase shall be on the landlord.
- B. The burden of proving service reductions shall be on the mobilehome owner or mobilehome tenant alleging that service reductions have occurred.

(Ord. 22284.)

17.22.830 Attendance of mobilehome owner or tenant.

- A. The administrative hearing officer's decision shall apply to all mobilehome owners or mobilehome tenants subject to the proposed rent increase regardless of whether such owner or tenant was present or represented at the administrative hearing.
- B. The administrative hearing officer's decision regarding service reductions shall apply to all mobilehome owners and mobilehome tenants who are subject to the proposed rent increase and are affected by the service reduction.

(Ords. 22284, 222802.)

17.22.840 Decision final.

Except as provided in Section 17.22.850, the decision of the administrative hearing officer shall be final and binding on the landlord and all mobilehome owners and mobilehome tenants who are parties to the hearing either personally or through their designated representatives.

(Ords. 22020, 22053, 22284.)

17.22.850 Mathematic or clerical inaccuracies.

Any party alleging that the administrative hearing officer's statement of decision contains mathematic or clerical inaccuracies may so notify the city rental rights and referrals program within fifteen calendar days of the mailing of the decision by the city rental rights and referrals program. The city rental rights and referrals program shall forthwith refer such allegations to the administrative hearing officer, who shall review the decision, make any corrections warranted, and refile the statement of decision within five working days of referral by the city rental rights and referrals program. Upon refiling of the statement, the decision shall be final and binding on the parties.

(Ords. 22284, 26792.)

**Part 8
FEES**

Sections:

17.22.900 Imposition of fee.

17.22.910 Amount of fee.

17.22.920 Payment of fee.**17.22.930 Proration of fee.****17.22.940 Penalty for late payment.****17.22.950 Transferability of fee.****17.22.900 Imposition of fee.**

A rent dispute fee is hereby imposed upon each rental unit which is subject to the provisions of this chapter. Said fee is imposed for the purpose of reimbursement to the city's general fund the costs of providing and administering the administrative hearing process established by this chapter.

(Ords. 22020, 22053, 22284, 22802.)

17.22.910 Amount of fee.

The city manager and the commission shall report to the city council not less than once each fiscal year their recommendation regarding the amount of the fee necessary to recover the costs of administering this chapter. The amount of the fee shall be set forth in the schedule of fees adopted by resolution of the city council. The fee shall not exceed the amount found by the council to be necessary to recover the costs of administering this chapter, and the council's finding in this regard shall be final.

(Ords. 22020, 22053, 22284.)

17.22.920 Payment of fee.

A. The mobilehome park landlord shall pay the rental dispute fee for all of the landlord's rental units which are subject to this chapter on or before January 31 of each year.

B. All payments shall be made to the city's director of finance.

C. The mobilehome park landlord may pass one-half the amount of the rental dispute fee to the resident of each space which is subject to the fee, provided that the amount of the pass through is set forth as a line item which is separate from the base rent.

(Ords. 22020, 22053, 22284, 24258, 24760.)

17.22.930 Proration of fee.

The first rent dispute fee to be paid shall be prorated by the director of finance to adjust future payments to a calendar year basis as follows:

A. A fee paid at any time during the first quarterly period shall be paid at the rate of one hundred percent of the full annual fee.

B. A fee paid at any time during the second quarterly period shall be paid at the rate of seventy-five percent of the full annual fee.

C. A fee paid at any time during the third quarterly period shall be paid at the rate of fifty percent of the full annual fee.

D. A fee paid at any time during the fourth quarterly period shall be paid at the rate of twenty-five percent of the full annual fee.

(Ords. 22020, 22053, 22284.)

17.22.940 Penalty for late payment.

A. The rent dispute fee is due and payable on the date the mobilehome park operating fee is due and payable.

B. Any mobilehome park landlord who fails or refuses to pay any fee required under this chapter for a period of thirty days from and after the date such fee is due shall, in addition to the fee, pay a penalty of ten percent of the amount of the unpaid fee.

(Ords. 22020, 22053, 22284.)

17.22.950 Transferability of fee.

In the event the mobilehome park operating permit is transferred to a successor landlord of a park for which the annual rent dispute fee has been paid, the transferring landlord or the successor landlord shall provide notice of the transfer to the city rental rights and referrals program and the successor landlord shall register with the city rental rights and referrals program as provided in Section 17.22.1050. Upon registration by the successor landlord in accordance with Section 17.22.1050, the successor landlord shall be deemed to have paid said rental dispute fee for the park.

(Ords. 22020, 22053, 22284, 22850, 26792.)

**Part 9
GENERAL PROVISIONS**

Sections:

17.22.1000 Notices.

17.22.1010 Role of rental rights and referrals program.

17.22.1020 Appeal of rental rights and referrals program decision.

17.22.1030 Role of city attorney.

17.22.1040 Judicial review.

17.22.1050 Registration of landlords.

17.22.1055 Notice of ordinance to mobilehome park residents and prospective residents.

17.22.1070 Establishment of maximum annual percentage increase.

17.22.1000 Notices.

- A. Any notice required to be given by any provision of this chapter may be given by personal service, by registered or certified mail, return receipt requested, or by first class mail, postage prepaid.
- B. If personally served or if sent by registered or certified mail, such notice shall be deemed given on the date actually received.
- C. If sent by first class mail, such notice shall be deemed given five days after the deposit of the notice in the United States mail or, if said fifth day is a day on which there is no mail delivery service, on the first day following said fifth day on which there is mail delivery service.
- D. If a party has filed a written designation of a representative pursuant to Section 17.22.800, a notice shall be deemed given to such party if it is given to such party's designated representative.

(Ord. 22284.)

17.22.1010 Role of rental rights and referrals program.

The city rental rights and referrals program shall provide staff services to the commission including, but not limited to, the following:

- A. Maintain files pertaining to rent disputes for which petitions are filed pursuant to this chapter.
- B. Review petitions for timeliness and completeness.
- C. Send notices to landlords, mobilehome owners and mobilehome tenants as required by this chapter.
- D. Screen applications from persons applying for positions as administrative hearing officers and make recommendations to the city council or city manager regarding employment of such persons.
- E. Send notices of commission meetings to interested parties.
- F. Prepare the agenda and the minutes of commission meetings and prepare packets of materials relating to matters before the commission.
- G. Determine the maximum annual percentage increase in accordance with the provisions of Section 17.22.155.C.
- H. Other duties as determined by the city manager.

(Ords. 22284, 24400, 26792.)

17.22.1020 Appeal of rental rights and referrals program decision.

Any landlord, mobilehome owner or mobilehome tenant aggrieved by an action or decision of the city rental rights and referrals program pursuant to this chapter may appeal such decision to the director by filing a written statement with said director within ten working days of the action or decision of the city rental rights and referrals program, with a copy to the city rental rights and referrals program, setting forth the grounds upon which such person believes the action or decision of the city rental rights and referrals program should be reversed. The director shall review the decision and make a final ruling.

(Ords. 22284, 24400, 26792.)

17.22.1030 Role of city attorney.

- A. The city attorney shall provide legal services to the commission.

B. The city attorney shall prepare formal legal opinions in response to requests from the city council, the commission, city staff or any administrative hearing officer. Legal questions raised by other persons shall be forwarded to the commission which may, in its discretion, refer questions of general interest or applicability to the city attorney.

(Ord. 22284.)

17.22.1040 Judicial review.

Any landlord, mobilehome owner or mobilehome tenant aggrieved by any decision of an administrative hearing officer in a proceeding pursuant to this chapter in which such landlord, owner or tenant is a party may seek judicial review in a court of competent jurisdiction.

(Ord. 22284.)

17.22.1050 Registration of landlords.

A. Each mobilehome park landlord shall register with the city rental rights and referrals program on or before September 1, 1988. Such registration shall consist of filing with the city rental rights and referrals program the following information:

1. The name and address of the mobilehome park.
2. The number of lots in the mobilehome park which are occupied or available for occupancy.
3. The names and addresses of the owners of the mobilehome park.
4. The name and address of the manager of the mobilehome park.
5. The name and address of the person or persons designated for service of process on behalf of the mobilehome park landlord.

B. Upon the sale or transfer of a mobilehome park, the seller or transferor shall notify the city rental rights and referrals program of the date of the sale or transfer and of the name and address of the buyer or transferee.

C. Within ten days of the sale or transfer of a mobilehome park, the buyer or transferee shall register with the city rental rights and referrals program by providing the information required by subsection A. above.

D. No mobilehome park landlord shall demand, receive or collect any rent increase from any mobilehome owner or mobilehome tenant in excess of the amounts specified in Section 17.22.450 unless such landlord is registered with the city rental rights and referrals program as the landlord of the mobilehome park in which the rent increase is sought and has provided the information required by subsection A. above.

(Ords. 22850, 26792.)

17.22.1055 Notice of ordinance to mobilehome park residents and prospective residents.

A. The city rental rights and referrals program shall prepare a summary of the mobilehome rent ordinance set forth in this chapter and, upon approval of the summary by the mobilehome advisory commission, shall give a copy of the summary to the landlord of each mobilehome park located in the city.

B. The mobilehome park landlord shall maintain the summary in the mobilehome park office and shall give a copy of the summary to each resident of the mobilehome park annually prior to February 1 of each year.

C. At the time an offer is made to purchase or otherwise acquire any mobilehome that will remain in

the park, the selling or transferring mobilehome owner shall give a copy of the summary to the potential buyer or transferee.
(Ords. 22851, 26792.)

17.22.1070 Establishment of maximum annual percentage increase.

- A. On or before July 1 of each year, the city rental rights and referrals program shall determine the maximum standard annual percentage increase for the next year beginning October 1 in accordance with the provisions of Section 17.22.155C., and prepare a notice of the maximum standard annual percentage increase, and shall give a copy of the notice to the landlord of each mobilehome park located in the city.
- B. The mobilehome park landlord shall post a copy of the notice in the mobilehome park office within twenty-four hours of receipt.
(Ords. 24400, 24666, 26792.)

**Part 10
[RESERVED]**

**Part 11
ENFORCEMENT**

Sections:

- 17.22.2000 Waiver of rights.**
- 17.22.2010 Retaliation prohibited.**
- 17.22.2020 Excessive rents or demands therefor.**
- 17.22.2030 Excessive rents - Civil penalties.**

17.22.2000 Waiver of rights.

- A. Any waiver or purported waiver by a mobilehome owner or mobilehome tenant of rights granted under this chapter prior to the time when such rights may be exercised shall be void as contrary to public policy, except as provided in Section 17.22.370.
- B. It shall be unlawful for a landlord to require or attempt to require, as a condition of tenancy in a mobilehome park, a mobilehome owner, mobilehome tenant, prospective mobilehome owner, or prospective mobilehome tenant to waive in a lease or rental agreement or in any other agreement the rights granted to a mobilehome owner or mobilehome tenant by this chapter.
- C. It shall be unlawful for a landlord to deny or threaten to deny tenancy in a mobilehome park to any person on account of such person's refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a mobilehome owner or mobilehome tenant by this chapter.
- D. Nothing in this section shall preclude a mobilehome park landlord and a mobilehome owner, mobilehome tenant, prospective mobilehome owner or prospective mobilehome tenant from entering

into a lease or rental agreement described in Section 17.22.370 provided that such lease or rental agreement is not procured by a requirement that it be entered into as a condition of tenancy in the mobilehome park and is not procured under threat of a denial of tenancy in the mobilehome park.

(Ords. 22020, 22053, 22284, 22850.)

17.22.2010 Retaliation prohibited.

A. It shall be unlawful for any landlord to evict a mobilehome owner or mobilehome tenant where the landlord's dominant motive in seeking to recover possession of the rental unit is:

1. Retaliation for the mobilehome owner's or mobilehome tenant's organizing, petitioning government for rent relief, or exercising any right granted under this chapter; or
2. Evasion of the purposes of this chapter.

B. It shall be unlawful for a landlord to retaliate against a mobilehome owner or mobilehome tenant for the owner's or tenant's assertion or exercise of rights under this chapter in any manner, including but not limited to:

1. Threatening to bring or bringing an action to recover possession of a rental unit.
2. Engaging in any form of harassment that causes the owner or tenant to quit the premises.
3. Decreasing housing services.
4. Increasing rent.
5. Imposing or increasing a security deposit or other charge payable by the owner or tenant.

(Ords. 22020, 22053, 22284.)

17.22.2020 Excessive rents or demands therefor.

A. It shall be unlawful for a landlord to demand any rent in excess of the amounts specified in Section 17.22.450 during the period from the filing of a timely petition to the date an administrative hearing officer's decision approving such excess is rendered.

B. It shall be unlawful for a landlord to demand, accept, receive or retain any rent in excess of the maximum rent allowed by the decision of an administrative hearing officer under this chapter.

C. It shall be unlawful for a landlord to demand, accept, receive or retain any rent in excess of the maximum rent allowed by Section 17.22.450 or Part 4.5.

(Ords. 22020, 22053, 22284, 23914, 24400.)

17.22.2030 Excessive rents - Civil penalties.

A. If any person is found to have demanded, accepted, received or retained any payment of rent:

1. In excess of the maximum rent allowed by decision of an administrative hearing officer under this chapter, or
2. In violation of the notice provisions of Section 17.22.660, or
3. In the form of a service reduction without a corresponding reduction in rent, or
4. In violation of Section 17.22.450 or Part 4.5,

Such person shall be liable to the mobilehome owner or mobilehome tenant from whom such payment was demanded, accepted, received or retained, for damages as determined by a court of competent jurisdiction.

B. In the event a mobilehome owner or mobilehome tenant is the prevailing party in a civil action against a person found to have demanded, accepted, received or retained any payment of rent described in subsection A., such mobilehome owner or mobilehome tenant, in addition to damages as determined by the court pursuant to subsection A., may, in the discretion of the court, be awarded an amount not to exceed five hundred dollars or three times the damages determined by the court pursuant to subsection A., whichever is greater. For the purposes of this subsection, a mobilehome owner or mobilehome tenant shall be deemed to be a prevailing party if the judgment is rendered in such mobilehome owner's or mobilehome tenant's favor or if the litigation is dismissed in such mobilehome owner's or mobilehome tenant's favor prior to final judgment, unless the parties otherwise agree in the settlement or compromise.

C. Any person who suffers damages because of the failure of a mobilehome park landlord or a selling or transferring mobilehome owner to provide the information required to be provided by Section 17.22.1060, may bring an action for damages in a court of competent jurisdiction and shall be entitled to recover damages, as determined by the court, from such mobilehome park landlord or such selling or transferring mobilehome owner.

D. Remedies provided by this section are in addition to any other legal or equitable remedies and are not intended to be exclusive.

(Ords. 22020, 22053, 22284, 22802, 22851, 23914, 24400.)

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